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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,172	01/29/2001	John L. Cartier	09221-P01	9721

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BOSTON, MA 02108

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 03/06/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/772,172

Applicant(s)

CARTIER, JOHN L.

Examiner

Victor S Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 23 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by Onderak et al. (US 4403009).

Onderak's invention is directed to a floor covering specifically designed to provide improved skid resistance in areas where conditions require a positive footing (column 1, lines 8-10). In FIG. 1, a section of the floor covering is illustrated and referred to generally at (10). The plane (17) of the section is completely surrounded by the dams (11) (column 1, lines 33-34). FIG. 4 is a simplified exploded sectional view of the various layers of the laminated structure. The wear layer (52) is the surface layer, while foam layer (54) provides the resilient backing. The scrim (56) is applied to surface (55) of foam layer (54). A film layer (58) is the last and bottom layer of the floor

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covering and serves to seal the cavities formed between surface (55) of foam layer (54), and the scrim (56) (column 4, lines 28-39).

It is noted that Onderak does not specifically teach using the floor covering as a stair mat capable of providing a convenient method of eliminating ice, however, the Examiner notes that Onderak teaches that the foam layer has a thickness within the range of between about 0.05 and 0.2 inches (column 2, lines 19-20) which inherently encompasses the thickness required for ice breaking.

Claim 1 lacks novelty.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onderak et al. (US 4403009) in view of cited Juneau (US 5100716), substantially for the reasons set forth in section 4 of Paper No. 8, together with the following additional observations.

The teachings of Onderak are again relied upon as set forth above.

For claim 1, if the reference is not considered to be an anticipation, the Examiner believes that, alternatively, each of the claimed embodiments is at most a minor modification according to previously cited Juneau (see pages 3-4 of Paper 8). Note particularly that in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to modify the thickness of the foam layer in Onderak's floor covering, according to Juneau's teaching, motivated by the desire to provide a convenient method of removing ice from the mat.

For newly added claim 2, Onderak teaches that the foam layer has a thickness within the range of between about 0.05 and 0.2 inches (column 2, lines 19-20). Further,

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Juneau teaches that the foam layer has a thickness of at least 10 mm so that the laminated structure can deform under a light load exerted by a person standing on the covering without causing discomfort to the person by having a sensation of "sinking" into the covering (column 2, lines 53-58). As such, it is believed that suitable foam core thickness is either inherently disclosed, or an obvious optimization to one skilled in the art.

For newly added claims 3-5, it is believed that the suitable cover material (e.g., fiber reinforced imitation leather) is either inherently disclosed by Onderak, or an obvious selection to one skilled in the art of floor mat. Further, it is believed that suitable width, e.g., sufficient for two persons walking side by side, for a stair covering is old and conventional.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In addition, the following references are cited of interest for making floor mat:

US 5914169 to Brunetto

DE 3512400 A (Abstract)

US 5679432 to Holmquest et al.

WO 90/013555 to Sundqvist

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC  
February 25, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300

1700

*Daniel Zinker*